

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

| | |
|---------------------------------------|--------|
| | -----X |
| Greenlight Capital, Inc., DME Capital | : |
| Management, LP, | : |
| | : |
| Plaintiffs, | : |
| | : |
| – against – | : |
| | : |
| James T. Fishback, | : |
| | : |
| Defendant. | : |
| | -----X |

DECLARATION OF JUSTIN T. KELTON

I, Justin T. Kelton, declare pursuant to 28 U.S.C. § 1746 as follows:

1. I am a partner of the law firm Abrams Fensterman, LLP, counsel to defendant James Fishback in the above-captioned matter. I respectfully submit this declaration in support of Mr. Fishback’s motion to dismiss, to compel arbitration of any claims not dismissed, and to strike allegations that are irrelevant and prejudicial.

2. Annexed hereto as Exhibit 1 is a true and correct copy of Plaintiffs’ complaint in this matter, dated June 25, 2024.

3. Annexed hereto as Exhibit 2 is a true and correct copy of a complaint filed by Mr. Fishback in an action titled *Fishback v. Greenlight Cap., Inc.*, New York County Supreme Court Index No. 160289/2023 (the “State Court Action”), dated October 19, 2023.

4. Annexed hereto as Exhibit 3 is a true and correct copy of Greenlight’s Memorandum of Law filed in support of its motion seeking, in part, to compel arbitration, filed in the State Court Action on November 22, 2023.

5. Annexed hereto as Exhibit 4 is a true and correct copy of a stipulation executed by Greenlight and Mr. Fishback dated January 24, 2023.

6. Annexed hereto as Exhibit 5 is a true and correct copy of a letter from Mr. Fishback's counsel to the New York State Division of Human Rights, copying Greenlight's counsel, dated January 29, 2024.

To the best of my knowledge, information, and belief, I declare under penalty of perjury that the foregoing is true and correct.

Dated: August 26, 2024

/s/ Justin T. Kelton
Justin T. Kelton